

**MINUTES OF THE REGULAR MEETING**  
**OF THE**  
**PLANNING AND ZONING COMMISSION**

August 5, 2021  
9:32 a.m.

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Phoenix, Arizona

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**MEMBERS PRESENT:**

Mr. Greg Arnett, Chairman  
Mr. Jay Swart, Vice Chairman  
Mr. Kevin Danzeisen  
Mr. Erik Hernandez  
Mr. Jimmy Lindblom  
Ms. Kate McGee  
Mr. Lucas Schlosser

**MEMBERS ABSENT:**

Mr. Matt Gress  
Ms. Francisca Montoya

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning and Development Director  
Mr. Darren Gérard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney  
Mr. David Anderson, Business Engagement Manager, OET  
Ms. Pearl Duran, OET

**CONTINUANCE:**

**TA2018001**

**CONSENT:**

**Z2019121, Z2021062**

Chairman Arnett made the standard announcements and noted Commissioner Schlosser has a conflict on consent item #3 - Z2021062 and will be recused for that case.

**CONTINUANCE AGENDA**

**Text Amendment - TA2018001**

**All Districts**

Applicant: Joseph White, Becker Boards Small, LLC  
Request: Text Amendment – Off-Site Advertising Signs (Billboards)

Mr. Gérard said the applicant requested a continuance to the September 9 hearing.

No action required by the commission.

## CONSENT AGENDA

### Zoning - Z2019121

Districts 4 & 5

Project name: **RE Papago Solar Photovoltaic Power and Energy Storage**  
Applicant: RE Papago LLC  
Request: Zone Change from Rural-43 to IND-2 IUPD  
Location: Generally located between I-10 to the north, Courthouse Rd. to the south, 483rd Ave. alignment to the west, approx. 2855' NE of the intersection of 459th Ave. alignment and Salome Hwy. to the east

Mr. Gerard presented consent agenda item #2 – Z2019121.

Chairman Arnett asked if anyone wished to speak on the consent agenda. None.

**COMMISSION ACTION: Commissioner Hernandez motioned to approve Z2019121 with conditions 'a'-'i'. Vice Chair Swart second. Approved 7-0.**

- a. The initial Plan of Development shall be developed in substantial conformance with the Site Plan entitled "RE Papago Solar Photovoltaic Power and Energy Storage Project" consisting of 32 full-size sheets, dated June 15, 2021, and stamped received July 7, 2021, except that a revised site plan shall be submitted within 30 days of Board approval that reflects compliance with condition 'd.4.'" as it pertains to maximum lot coverage.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Zone Change Narrative", consisting of 22 pages, dated July 6, 2021, and stamped received July 6, 2021 except as modified by the following conditions except that a revised narrative shall be submitted within 30 days of Board approval that reflects compliance with condition 'd.4.'" as it pertains to maximum lot coverage.
- c. The following Planning Engineering conditions shall apply:
  1. Drainage Waiver case DRB2021005 must be approved prior to issuance of building permits.
  2. Detailed Grading and Drainage Plans showing the new site improvements must be submitted for the acquisition of building permits. On-site (solar field & substation) areas must be designed in such a manner so that flows are directed to retention basin(s). Basin overflows must be directed to well-defined drainage corridors, to the maximum extent possible.
  3. Owner or owner's agent shall be responsible for identifying and procuring any permit(s) for disturbance of, or work within delineated jurisdictional (Section 404) washes.

4. Sizing of the basin spillways must be determined based on the peak unattenuated flow rate, based on the proposed site condition, using either the Rational Method or DDMSW. Where the retention areas will be comingled with offsite flows, the offsite flows must be included in the discharge rate.
5. As part of the final design, channelized flow may be required to be dissipated (spread) at their outflow locations to match existing downstream conditions.
6. Drainage review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with Section 1205 of the Maricopa County Zoning Ordinance and the Maricopa County Drainage Policies and Standards. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance and current engineering policies, standards and best practices at the time of application for construction.
7. Any disturbance to Special Flood Hazard Areas (floodplains) will require that a Floodplain Use Permit be issued concurrent with the associated building permit.
8. Pads for inverters, other electrical equipment, and any buildings within a Floodplain must be elevated to the regulatory flood elevation or otherwise designed to meet the requirements of the Floodplain Use Regulations. All development and engineering design shall be in conformance with the most current version of the Floodplain Use Regulations for Maricopa County.
9. Project improvements (i.e. electric lines) within and immediately adjacent to District owned properties require a Right-of-Way Permit from the Flood Control District.
10. Future right-of-way needs, dedication, preservation, and offsite improvements, shall be addressed during site plan and/or building permit review, with the submittal of a traffic impact study, prior to any approvals.
11. Driveway accesses to paved MCDOT right-of-ways must be paved for the full width of the right-of-way.

d. The following IND-2 IUPD Zoning District standards shall apply:

1. Maximum Electric Transmission Line Height – 140'
2. Minimum Side Yard – 0'
3. Minimum Rear Yard – 0'

4. Maximum Lot Coverage – 60%
  5. Parking Spaces Required – None required with a Maricopa County Air Quality Department approved dust control plan. High curb and/or bumper guards not required.
  6. Landscaping – No landscaping areas required
  7. Sight Visibility Triangles – No sight visibility triangles are required at project site entry/access points and road intersection, section line, mid-section line or alignment corners
  8. Article 902.91 – All utility uses shall be permitted to be conducted outdoors
  9. Site Enclosure and Screening – 6' chain-link fencing with 1' of barbed wire permitted
- e. The Owner or Developer shall address and respond to all recommendations of the Arizona Game and Fish Department (AZGFD) included in the letter dated May 26, 2021 at the time of construction permitting. The response shall be sent to AZGFD for review and consideration. The Zoning Inspector and/or their designee shall review the applicant's response, and any subsequent comments received from AZGFD, to determine whether the response issued by the Owner or Developer addresses AZGFD comments in good faith. Should the Zoning Inspector and/or their designee decide that the Owner or Developer has not substantially addressed AZGFD comments in good faith, the Owner or Developer shall be required to propose and implement alternatives to the recommendations made by AZGFD.
- f. The IND-2 IUPD shall limit the use of the site exclusively to a solar electric generating facility including ancillary offices and ancillary uses. All other site uses shall require a Zone Change Major Amendment.
- g. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Zone Change, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Zone Change, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it

held on the date of application due to such revocation or expiration of the Special Use Permit. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

**Zoning - Z2021062**

**District 4**

Project name: **Marbella Ranch East**  
Applicant: Joe Walsh, Walsh Design Group  
Request: Zone Change from Rural-43 to R-5 RUPD  
Location: Approx. 1,280' south of the SEC of Northern Ave. and El Mirage Rd., in the Glendale area

Mr. Gérard presented consent agenda item #3 – Z2021062.

**COMMISSION ACTION: Commissioner Lindblom motioned to approve Z2021062 with conditions 'a'-'k'. Commissioner Danzeisen second. Approved 6-0.**

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "Marbella Ranch East", consisting of 1 full-size sheet, dated and stamped received July 6, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Project Narrative for Rezone of Marbella Ranch East", consisting of 7 pages, dated and stamped received July 6, 2021, except as modified by the following conditions.
- c. The following R-5 RUPD standards shall apply:
  1. Front yard: 15 ft.
  2. Rear yard: 15 ft.
  3. Minimum lot area: 3,000 sq. ft.
  4. Minimum lot width: 40 ft.
  5. Garage setback to alley line: 3 ft.
- d. The following Planning Engineering conditions shall apply:
  1. Without the submittal of a precise plan of development, no development approval is inferred by this review, including, but not limited to drainage design, access and roadway alignments. These items will be addressed as development plans progress and are submitted to the County for further review and/or entitlement.
  2. A traffic impact study must be submitted with any future entitlement application (i.e. preliminary plat or plan of development).

3. Dedication of right-of-way for El Mirage Road may be required as part of future entitlement application(s).
  4. The site contains regulated floodplains. Encroachment into FEMA Zone AE and FW floodplains/floodways is extremely restrictive. The applicant must address requirements required to develop the site as the project progresses through future entitlement(s).
  5. The applicant must address how improvements, residences and other improvements necessary for development of the site will be protected from scour along the Agua Fria River (34,500 cfs) as development plans progress and are submitted to the County for further review and/or entitlement.
  6. Engineering review of re-zone cases is conceptual in nature. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.
- e. The following Maricopa County Environmental Services Department (MCESD) condition shall apply:
1. It should be noted that this document does not approve the referenced project. Comments are provided only as advisory to Maricopa County Planning and Development Department to assist staff to prepare a staff report. Other Maricopa County agencies may have additional requirements. Final review and approval will be made through Planning and Development Department procedures. Applicant may need to submit separate applications to the Maricopa County Environmental Services Department for approval of proposed facilities regulated by the Department. Review of any such application will be based on regulations in force at the time of application.
- f. All buildings subject to noise attenuation as per ARS § 28-8482(B).
- g. The master developer shall notify future homeowners that they are located within the state-defined "territory in the vicinity of a military airport" with the following language:

"You are buying a home or property in the 'vicinity of a military airport' as described by State of Arizona statute ARS §28-8481. Your house should include sound attenuation measures as directed by State law. You will be subject to direct over flights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes over 200,000 flight operations per year, at an average of approximately 170 overflights per day. Although Luke's primary flight paths are located within 20 miles from the base, jet noise will be apparent throughout the area as aircraft transient to and from the Barry M. Goldwater Gunnery Range and other flight training areas.

Luke Air Force Base may launch and recover aircraft in either direction off its runways oriented to the southwest and northeast. Noise will be more noticeable during overcast sky conditions due to noise reflections off the clouds.

Luke Air Force Base's normal flying hours extend from 7:00 a.m. until approximately midnight, Monday through Friday, but some limited flying will occur outside these hours and during most weekends.

Such notification shall be recorded on all Final Plats, be permanently posted on not less than a 3 foot by 5 foot sign in front of all home sales offices, be permanently posted on the front door of all home sales offices on not less than an 8½ inch by 11 inch sign, and be included in all covenants, conditions, and restrictions (CC&Rs) as well as the Public Report and conveyance documents.

- h. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- i. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- j. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.
- k. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS § 11-814 for five (5) years, within which time the subject site shall obtain an approved plan of development or final

subdivision plat, and an issued infrastructure permit for initial development. If this term is not met the Planning and Development Department may present the R-5 RUPD zoning for Z2021062 to the Board of Supervisors (Board), upon recommendation by the Planning and Zoning Commission (Commission), for consideration of amendments or revocation of zoning due to undeveloped parcels.

Chairman Arnett adjourned the meeting at 9:41 a.m.

Prepared by Rosalie Pinney  
Recording Secretary  
August 5, 2021